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SUBJECT: GUIDANCE FOR USUN FOR THE SECURITY COUNCIL JOINT
MEETING ON THE COUNTER-TERRORISM COMMITTEE,
AL-QAEDA/TALIBAN COMMITTEE, AND 1540 COMMITTEE

¶1. This is an action request. Please see paragraphs 3, 4
and 5.

BACKGROUND

¶2. (U) On Friday, 13 November, the Chairman of the 1267
(Al-Qaeda/Taliban) Sanctions Committee (Austrian PermRep
Thomas Mayr-Harting), the Chairman of the Security Council
Committee established pursuant to resolution 1540 (Costa
Rican PermRep Jorge Urbina, and the Chairman of the
Counter-Terrorism Committee (CTC) (Croatian PermRep Ranko
Vilovic) will brief the UNSC on their ongoing efforts to
cooperate and coordinate activities, where appropriate. This
meeting presents an opportunity to recognize the fine work of
all three committees, and to underscore key challenges that
lie ahead.

ACTION REQUEST

¶3. (U) Department requests USUN deliver the following
remarks in response to the statement for the Security Council
Joint Meeting on the Counter-Terrorism Committee,
Al-Qaeda/Taliban Committee, and 1540 Committee:
Mr. President, I would like to thank the Chairmen for their
briefings. Their dedicated leadership is central to the
effectiveness of the 1267 Committee, the 1373 Committee, and
the 1540 Committee. Today we have an opportunity to focus on
the accomplishments of the three committees over the past
several months. But more importantly we want to underline
the importance of these committees and to invite all member
states to unreservedly cooperate with their efforts.
The United States supports the important role the United
Nations plays in reinforcing national and regional
counter-terrorism efforts. As President Obama said in his
September 23 address to the UNGA, the United States has "set
a clear and focused goal: to work with all members of this
body to disrupt, dismantle, and defeat al Qaeda and its
extremist allies -- a network that has killed thousands of
people of many faiths and nations, and that plotted to blow
up this very building."
The Security Council-based work of the three committees, and
of the 1267 Monitoring Team and Counter-terrorism Executive
Directorate, along with the General Assembly's Global
Counter-terrorism Strategy and the Counter-terrorism
Implementation Task Force, constitute interlocking and
complementary pieces of the Global Community's response to
terrorism. This includes preventing non-state actors' access
to WMD-related materials. We also applaud the efforts of the
UNODC's Terrorism Prevention Branch in its important mission
of promoting and assisting states to ratify and implement the
universal counterterrorism conventions and protocols.

1267

Ambassador Mayr-Harting, the United States appreciates the
leadership you have displayed as chair of the 1267 Committee.

We particularly welcome the personal commitment and

dedication you have shown in helping the Committee address some very challenging questions. We also commend the work of the Monitoring Team, which has played a vital role as an independent and objective fact-finding body, and which has supplied the Committee with important information on individuals and entities on the Consolidated List, as well as the practices of Member States.

Countering the threat posed by al-Qaeda and the Taliban remains one of the most important challenges facing this Council. The threat is real and it continues to evolve. Without the efforts of Member States to work collectively, the world would be much more vulnerable to terrorist attacks.

What can we do to ensure this regime remains a vital and effective multilateral tool to respond to this threat? First, we can reaffirm the international community's commitment to full implementation of the 1267 measures. Imposing these targeted sanctions -- whether in the form of an asset freeze, arms embargo, or travel ban -- has unquestionably enhanced our security. The 1267 regime can only function well if states actively participate in the regime, such as by proposing new names for listing. We should further develop this tool and ensure that it adapts to the ever-changing nature of the threat.

Second, we should continue our efforts to ensure that the Consolidated List is as accurate and up-to-date as possible, ensuring that our procedures for imposing sanctions are fair and clear. Resolutions 1735 and 1822 introduced new measures to help the Committee confirm the accuracy of the list. The Committee's work to implement what is perhaps the most significant measure in 1822 -- the review of every name on the Consolidated List by June 2010 -- will continue in the coming months. By reviewing every listed individual and entity on the Consolidated List, the Committee is emphasizing the importance of keeping the List updated and fresh, so that the international community can respond to new threats in a manner that is efficient and effective. The United States is committed to ensuring that this review is meaningful and working with Member States to finish this review on time. We encourage the Committee and Member States to carefully review entries lacking sufficient identifiers to develop this information in order to facilitate implementation of sanctions of those individuals and entities that continue to meet the criteria for listing. Improving identifiers for listings will serve to bolster the overall credibility and integrity of the List.

And, third, we should continue our efforts to ensure that the sanctions are applied in a fair and transparent way. Resolution 1822 and its predecessors introduced significant enhancements to ensure fairness. The Council will negotiate, in the coming weeks, a new resolution to renew the mandate of the 1267 Monitoring Team and will take the opportunity to enhance the regime and improve our ability to counter the al-Qaeda and Taliban threat. The United States believes this resolution should take additional steps to ensure that the process for listing and delisting individuals is as fair and transparent as possible. We believe there is room to improve the way in which the 1267 Committee decides to list individuals and how it considers requests from those seeking to be removed from the list. We encourage the committee to build upon the ambitious reforms articulated in UNSCR 1822 and to work towards strengthening the principles set out in that resolution.

As global terrorism continues to evolve, so too must our efforts to counter this threat anywhere and everywhere it surfaces. We stand ready to help the Council and 1267 Committee address these challenges, and we are confident that the resolve of the international community cannot be matched by those who wish to do us harm.

1373

Regarding the Counter-terrorism Committee, I would like to thank Ambassador Ranko Vilotić for filling in and doing an exceptional job of guiding the work of this Committee. As the interim Chair of the Counter-terrorism Committee, Ambassador Vilotić fostered greater efficiency in the Committee's work. Ambassador, we wish you well and we thank you for your leadership.

The United States welcomes significant improvement in CTED's performance since Mike Smith took over leadership of the

group some two years ago. We are pleased to see more CTED engagement outside of New York, in capitals and with experts in the relevant ministries on the ground. This is where the United States would like CTED to place even more emphasis. We applaud CTED's work in South Asia, in particular the workshop it organized earlier this month in Dhaka with the Bangladesh Enterprise Institute that brought together police and judicial officials from across South Asia for counter-terrorism training, which was delivered by experts from the UN, Commonwealth Secretariat, and bilateral partners. The United States encouraged CTED to organize more practical, on-the-ground activities, thus taking advantage of the UN's ability to offer a multilateral platform for expert-to-expert networking and delivery of assistance by experts from member states, regional organizations, and NGOs.

CTED's work in South Asia is a great example of the UN using its convening power to work on a regional level where there are few actors with the same degree of legitimacy and neutrality to ensure widespread acceptance. We encourage CTED and the wider UN to explore similar opportunities in North Africa.

Mr. President, the United States welcomes efforts to develop a more holistic UN counterterrorism program that a) is more integrated with the wider UN efforts to promote international peace and security and b) involves working with states around the world to build the capacities needed to confront a range of inter-related transnational security challenges, including terrorism. This effort involves not just the UNSC, but the UNGA and other relevant UN bodies. In this context, the United States looks forward to further participation of the UNSC committees and their expert groups in the CTITF.

We welcome the recent visit by UN High Commissioner for Human Rights Pillay to the CTC and her constructive recommendations for strengthening existing approaches to underscore the role of human rights in the fight against terrorism in the work of CTC/CTED. As President Obama said in his inaugural address, there need not be a tradeoff between our security and our ideals. The United States looks forward to working with partners both in and outside UNSC to ensure that the UN is playing its part to ensure that national counter-terrorism measures are grounded in the respect for human rights and the promotion of the rule of law, and that cooperation between the CTC/CTED and the UN human rights bodies is further strengthened.

With strong leadership at the helm of CTED, the United States is looking forward in 2010 to ensuring that the CTC itself becomes a more dynamic body and a forum where the practical challenges of implementing UNSCR 1373 at national and regional levels are debated more regularly and the committee's work is made more relevant to CT practitioners on the ground.

It has been more than eight years since the adoption of 1373, and the time is right to ratchet up efforts, including through increased outreach by the CTC, to ensure that implementation remains a priority for countries around the world.

1540

Regarding the 1540 Committee, I would like to take a moment to praise Ambassador Urbina for his leadership and enthusiasm in guiding the work of this Committee. As Chair of the 1540 Committee, Ambassador Urbina has promoted greater transparency and supported a range of ideas to make the Committee's work more effective and relevant. The agreed work program he put forth is to be adopted again in January, and we believe the four Committee-led working groups -- on monitoring of implementation, provision of assistance, cooperation among regional and intergovernmental organizations, and coordination of transparency and outreach -- have been very successful. Moreover, he and his delegation presided over the Comprehensive Review of the Status of Implementation of Resolution 1540, an event that by any measure proved to be a great success.

Ambassador, we wish you well and we thank you for your leadership. You will leave behind a Committee with a strong mandate and a clear vision.

In the six months, time since these three Committees addressed the Council, the world has seen a growing interest in the work of the 1540 Committee. With the unanimous

adoption of resolution 1887 on September 24, this Council sent a loud and clear message that resolution 1540 is an essential tool for building the non-proliferation regime. As President Obama made evident during the Security Council Summit, my government -- at the very highest levels -- views the Security Council's efforts on non-proliferation as vital to our common efforts to prevent the spread and use of weapons of mass destruction.

Resolution 1887 affirms the need for full implementation of Resolution 1540, welcomes the work that the 1540 Committee has done to date on funding mechanisms, and reinforces the Security Council's commitment to ensure effective and sustainable support for the Committee's activities, including capacity building.

Within a week of adopting resolution 1887, the Committee conducted its Comprehensive Review of the Status of Implementation on Resolution 1540, as called for in resolution 1810. This three-day event offered an inclusive forum to all States and relevant inter-governmental bodies to share experiences and express their views on various aspects of implementation of the resolution. The review was accompanied by a civil society event that included dozens of nongovernmental organizations and industry leaders, resulting in a wealth of ideas for the committee to consider further measures to facilitate 1540 implementation. The presentations and statements made during the Comprehensive Review demonstrated that the 1540 Committee has moved beyond being considered a temporary stop-gap measure to stem proliferation to become a centerpiece in our common battle against the proliferation of weapons of mass destruction.

The United States is moving quickly with twelve co-sponsors on a broad initiative to better coordinate trilateral mission capacity-building in Vienna related to UNSCR 1540 among the Organization for Security and Cooperation in Europe (OSCE), the International Atomic Energy Agency, and the UN Office of Drugs and Crime. During a September 30 meeting, OSCE participating states adopted the first chapter of a UNSCR 1540 "Best Practice Guide on Transshipment and Export Controls," and subsequently met on October 20-21 to further discuss the broader regional strategy initiative.

We urge the 1540 Committee to enhance similarly broad cooperation with international, regional and non-governmental organizations.

Success of the 1540 Committee lies in its ability to move forward with its work program to fully implement 1540,s provisions. We urge the Committee to streamline the assistance request process to make requests more transparent and to ensure that requests are answered in a timely and efficient manner. As part of this effort, the United States is committed to establishing a voluntary fund to help provide the support and expertise necessary to facilitate implementation of Resolution 1540. We will seek to make a meaningful contribution to such a trust fund once it is established, provided it contains effective transparency and accountability mechanisms. A voluntary UN trust fund would help identify and ultimately fix gaps in national export laws and detection systems and could, in that manner, prevent materiel, technology, and financial resources from making their way to governments and terrorists seeking to build these weapons.

In conclusion, regarding all three CT-related bodies, there needs to be more cross-fertilization among them. Good practices in one should be adopted more regularly by others. This does not happen often enough. We would especially like to commend the successful outreach efforts by the 1540 committee, including through the unprecedented three-day open meeting the 1540 Committee organized this fall as part of its comprehensive review of member states' implementation of resolution 1540, as well as its successful efforts to reach out to civil society and involve it in the committee's work. All of the Council's CT-related committees should remain mindful of the need to enhance the transparency of their work, make it more accessible to the wider UN community and national actors, regional organizations, and civil society. We encourage further engagement by the three committees with Member States on a broad range of issues to ensure the committees' work is fully understood and relevant to Member States' efforts to combating terrorism.

14. (U) Department further requests USUN draw from the following points, if needed, should the case of Luis Posada Carriles and five Cuban Spies be raised (likely by the Governments of Cuba and/or Venezuela), following the SC joint briefing. Cuba and Venezuela have in the past been placed on the speakers' list for the Joint Public Meetings on the CTC, 1267, and 1540 Committee Security Council briefings, and have used such opportunities to raise such issues. Begin remarks:

POSADA:

-- Contrary to the statements you have heard, the United States has taken a number of actions with respect to Luis Posada Carriles ("Posada").

-- The United States' actions are consistent with international law as well as our domestic legal framework that provides for due process and various constitutional safeguards.

-- As with democracies around the world that follow the rule of law, these safeguards provide that an individual cannot be brought to trial or extradited unless sufficient evidence has been established that he committed the offense charged. In the United States, this standard is described as "probable cause."

-- Let me give you a brief overview of steps the United States has taken with respect to Posada within this legal framework:

-- Posada entered the United States illegally in early 2005.

-- Posada was detained by immigration authorities in the United States on May 17, 2005, and he was, in accordance with U.S. law, placed in removal proceedings.

-- The immigration judge who handled the removal proceedings ordered that Posada be removed from the United States on September 27, 2005.

-- This order remains in effect. The United States has been seeking ways to carry out the terms of the order consistent with U.S. regulations that implement the obligations of the United States under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

-- Specifically, at the time the immigration judge ordered Posada removed, the immigration judge also determined that Posada could not be removed to either Cuba or Venezuela as it was more likely than not that he would be tortured if he were so transferred. As a matter of U.S. immigration law, the United States is not in a position to remove Posada to either country. (For use if appropriate.)

-- Moreover, the United States sought and obtained a criminal indictment charging Posada with violations of our immigration laws. On April 8, 2009, new criminal charges were brought against Posada in that case, accusing him of lying about his involvement in certain terrorist bombings in Havana, Cuba. The case is currently scheduled for trial early next year.

-- In the meantime, Posada remains subject to the order of removal issued by the immigration judge and is without legal status in the United States.

-- He is also subject to an Order of Supervision from the Department of Homeland Security, Immigration and Customs Enforcement (ICE), which imposes certain restrictions on Posada, including reporting and monitoring requirements.

-- In sum, with respect to Posada, the United States continues to be engaged in an ongoing series of actions, consistent with our legal requirements and due process.

FIVE CUBAN SPIES:

-- In the case of the five Cubans accused of spying, the facts of the case help address the misrepresentations issued by the Cuban Government and others in relation to this case:

-- The Cuban Five were tried in U.S. federal court and were accorded all guarantees of due process provided under the U.S. Constitution. They were ultimately convicted for being unregistered agents of the Cuban government. Three of the defendants were also convicted of attempting to obtain non-public national defense information, and one was convicted of conspiracy to commit murder. In fact, the defendants never denied that they were covert agents of the Cuban regime.

-- The defendants have made full use of their extensive due process rights, benefiting from their vast procedural protections and the provision of U.S. government-funded legal assistance. The defendants continue to take advantage of their rights as guaranteed under the U.S. Constitution. Millions of Cubans on the island have been waiting for a half-century for the rights these defendants were afforded in the United States.

-- A panel of the U.S. Court of Appeals for the 11th Circuit initially determined that the defendants should have been granted a pre-trial change of venue, but in August 2007, the full U.S. Court of Appeals for the 11th Circuit in Atlanta held that the defendants did receive a fair trial.

-- On June 4, 2008, another panel of the U.S. Court of Appeals for the 11th Circuit decided all remaining issues raised by the defendants. The Court of Appeals affirmed the convictions of all five defendants, holding that all of the legal arguments challenging their convictions were without merit, and that sufficient evidence supported each conviction. The panel affirmed the sentences for the other two defendants, including the life sentence of the defendant convicted of conspiracy to commit murder in connection with the Brothers to the Rescue shoot-down.

-- The panel also vacated sentences for three of the five defendants and remanded their cases so that new sentences could be imposed. On October 13, the U.S. District Court for the Southern District of Florida reduced Antonio Guerrero's life sentence to 21 years and 21 months. The remaining two defendants are scheduled to receive new sentences in December.

-- The five convicted Cuban spies are serving sentences in federal institutions throughout the U.S. They are held among, and have the same privileges available to, the general prison population. Under the Federal Bureau of Prisons, provision, inmates are allowed visits by immediate family members and other approved relatives; friends and associates with pre-established relationships; as well as their attorneys and Cuban consular officials. All prospective visitors, other than immediate family members, may be subject to a background check and approval by institution staff.

-- The five convicted Cuban spies have received numerous, lengthy visits from eligible family members. According to State Department visa reports, relatives of the five have been issued visas on more than 120 occasions for visitation purposes. However, two of the wives of the "Cuban 5" participated in the spy network, and as such, it has affected their eligibility to be granted visas to enter the United States. The USG has determined that it is not possible, due to the national security risk she poses, to provide Olga Salanueva with a visa to enter the United States. Salanueva was originally deported from the United States in 2000 for activity related to espionage.

End remarks.

15. (U) Finally, Department requests that mission draw from the following points if the issue of Venezuelan support for the Revolutionary Armed Forces of Colombia (FARC) or the

National Liberation Army (ELN) is raised. Mission may also draw on points below regarding the U.S.-Colombian Defense Cooperation Agreement, if reference is made to the installation of U.S. military bases in Colombia.

Begin Remarks:

-- Venezuelan President Hugo Chavez's ideological sympathy for the FARC and the ELN for the past decade has limited Venezuelan cooperation with Colombia and others in combating terrorism.

-- In January 2008, Chavez called for, and the Venezuelan National Assembly approved, a resolution calling for international recognition of the FARC and ELN as belligerent forces, not terrorist groups.

-- Chavez has repeatedly made statements glorifying the FARC, including by calling the group's former second-in-command a "good revolutionary."

-- Venezuela has further provided safehaven to FARC fighters, and has made little effort to systematically police the 1400-mile Venezuelan-Colombia border to prevent the movement of groups of armed terrorists or to interdict arms or the flow of narcotics.

-- As a result, the FARC, ELN, and remnants of the United Self-Defense Forces of Colombia have regularly crossed into Venezuelan territory to rest and regroup as well as to extort protection money and kidnap Venezuelans to finance their operations.

DEFENSE COOPERATION AGREEMENT

-- The U.S. and Colombia on October 30 signed the Defense Cooperation Agreement, which facilitates U.S. access to Colombian bases in support of mutually approved activities within Colombia only.

-- The agreement harmonizes existing bilateral cooperation on eliminating narcotics production and trafficking, illicit smuggling of all types, and augments assistance efforts for humanitarian and natural disasters.

-- This agreement explicitly indicates that all activities will be consistent with the principles of sovereignty, non-interventionism, and territorial integrity. It has no regional or extraterritorial application.

End Remarks

16. (U) Department appreciates Mission's assistance.
CLINTON